

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,
v.
EMMETT WESSON,
Defendant.

NO. CR-01-6027-RHW

**ORDER DENYING
DEFENDANT'S MOTION FOR
REDUCTION OF SENTENCE
UNDER 18 U.S.C. § 3582(c)(2)**

Before the Court is Defendant's Motion for Modification of Sentence Pursuant to Title 18 U.S.C. § 3582(c)(2), and Motion for Appointment of Counsel (Ct. Rec. 114). The motion was heard without oral argument.

On December 17, 2007, Defendant filed a Motion for Reduction of Sentence (Ct. Rec. 109). The motion was based on 18 U.S.C. § 3582(c)(2) and the disparity of the sentencing ranges between crack and powder cocaine. The Court denied the motion because Defendant's sentence was not based on the quantity of crack cocaine that he distributed; rather he was sentenced based on Chapter 4, Career Criminal provisions.

On November 5, 2009, Defendant filed a second motion to reduce his sentence based on the disparity of sentencing ranges between crack and powder cocaine. As set forth in the prior order, there is no basis to modify Defendant's sentence. *See United States v. Wesson*, 583 F.3d 728, 731 (9th Cir. 2009) (holding that a career offender sentenced pursuant to § 4B1.1 is not eligible for a sentence reduction under Amendment 706).

**ORDER DENYING DEFENDANT'S MOTION FOR REDUCTION OF
SENTENCE UNDER 18 U.S.C. § 3582(c)(2) ~ 1**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Motion for Modification of Sentence Pursuant to Title 18
3 U.S.C. § 3582(c)(2), and Motion for Appointment of Counsel (Ct. Rec. 114) is
4 **DENIED.**

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order and provide a copies to Defendant and counsel.

7 **DATED** this 22nd day of December, 2009.

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10 *s/Robert H. Whaley*

11 ROBERT H. WHALEY
12 United States District Judge

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